

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JUNE 20, 2006

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Commissioner Sturtz and Commissioner Guthrie. Also in attendance were Executive Secretary Choe and Superintendent Huskey.

Lisa Goldner of Bose McKinney and Evans, Grant Monahan and John Barnett were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes submitted for the meeting held on June 6, 2006. Motion seconded by Commissioner Guthrie and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Commissioner Guthrie moved to approve the parties agreed disposition forms that were submitted for the June 20, 2006 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-19184 SOL ENTERTAINMENT, INC. – Hearing Judge Choe recommended the Commission remand this application to the local board for reinvestigation.

Commissioner Guthrie moved to approve the hearing judges recommendation. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-04541 ZOECOE, INC. – Hearing Judge Choe stated the remonstrator, who filed the appeal in this matter, did not show for the appeal hearing. Therefore, the Hearing Judge recommended the Commission dismiss the appeal with prejudice.

Commissioner Guthrie moved to uphold the recommendation of the hearing judge and dismiss the appeal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL50-20924 WAL-MART STORES EAST LP, DL50-20838 WAL-MART STORES EAST LP, DL31-21268 WAL-MART STORES EAST LP, DL82-21036 WAL-MART STORES EAST LP, DL82-21381 WAL-MART STORES EAST LP – Commissioner Guthrie moved to deny the Motions to Reconsider these matters and allow the appeals to proceed. Motion seconded by Commissioner Sturtz and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Five hundred fifty-nine (559) renewals approved, sixty-six (66) new and/or transfer permits approved, ten (10) permits approved for catering, eleven (11) permits approved for first year escrow, six (6) permits approved for second year escrow, three (3) permits approved for third year escrow and three (3) permits approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Guthrie moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR02-05244 K & M ENTERPRISES, INC. – Chairman Heath noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to approve for one year.

Commissioner Guthrie moved to uphold the local board's recommendation and approve this renewal for one year. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR70-22445 KISMET, INC. – Chairman Heath noted this is a new type 210-1 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR49-19889 D. L. BAYNE, LLC – Chairman Heath noted this is a type 210 transfer of ownership application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL54-22030 MAC'S CONVENIENCE STORES, LLC –

Heath – Permit number 54-22030 Mac's Convenience Stores LLC.
New type 115 application with the local board voting three to one to disapprove.

Guthrie - Mr. Chairman, this was an application that we remanded to the local board because it came up here as a disapproval with no reasons stated for it. It came back to us this time again with no reasons stated, other than a comment that gas pumps and alcohol should not be together. Therefore, I move that we reverse, disapprove the recommendation of the local board and approve this application.

Sturtz - Second.

Heath - Motion carries.

INACTIVE FILES

Commissioner Guthrie moved to make nineteen (19) permits inactive. Fifteen (15) permits are not subject to auction and four (4) permits are subject to auction. Motion seconded by Commissioner Sturtz and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

RR29-94208 CROWN ENTERPRISES, LLP –

Guthrie - This is a permit that we declared inactive at a prior meeting. After that, the applicant now has someone they want to transfer

the permit to. And at looking at the file, it appears that there was an attorney involved. In our notices to the applicant, they were going to the wrong address and we also didn't notify the attorney as to the deadlines. So, they failed to respond to the six month notice of ours and they also failed to respond to the final notice we sent, both of which were sent to the wrong address. There is at least some responsibility on our part for overlooking the presence of the attorney and also communication from the applicant (inaudible). Therefore, I move that we reconsider that action and reactivate this permit and allow this transfer.

Sturtz - Second.

Heath - Motion carries.

POLICY DETERMINATIONS

LOCAL BOARD QUORUM – Commissioner Guthrie stated the Commission needs to adopt a policy regarding voting by the local board members when there is no quorum. He moved that the Commission adopt the following policy:

“At any local board meeting without a quorum (at least 3 members) all applications without remonstrators shall be forwarded to the Commission for action. Action on any application with remonstrators shall be continued until a quorum is present.”

Motion seconded by Commissioner Sturtz and it was unanimously approved.

COMMODITIES LIST – Commissioner Guthrie moved to remove “underwear” from the commodities list. Motion seconded by Commissioner Sturtz and it was unanimously approved.

UNDER ADVISEMENT

Nothing Under Advisement

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2006.

DAVE HEATH, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER